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BEFORE THE SUBCOMMITTEE ON SURFACE TRANSPORTATION
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
U.S. HOUSE OF REPRESENTATIVES

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Good morning Mr. Chairman and members of the subcommittee. I am Kelley Coyner, the Acting Administrator of the Research and Special Programs Administration. I appreciate the opportunity to update you on the Department's ongoing efforts to improve the safety of transporting hazardous materials. Today, I am accompanied by Mr. George Reagle, the Federal Highway Administration's Associate Administrator for Motor Carriers.

The transportation of hazardous materials is a critical part of America's economy. One way to measure that importance is by noting that non-petroleum chemicals constitute roughly a \$1.4 trillion global industry, with the U.S. chemical industry accounting for about 25 percent of the world's total. They play an extremely important role in our everyday life. Hazardous materials include such things as radiopharmaceuticals, which are vital for medical treatment, cosmetics and cleaning supplies, as well as a number of chemicals that are important for our

manufacturers nationwide. Getting these products to the people who need them requires nearly a million hazardous materials shipments per day. The public counts on these shipments being made safely.

The program we have developed for hazardous materials transportation provides a very good level of safety. However, we are always looking for opportunities to strengthen the program. Safety is Secretary Slater's first priority, and it is the first priority for our hazardous materials transportation program.

Today, I would like to emphasize three principal areas. First, we have comprehensive standards for the safe transportation of hazardous materials and we are looking for ways to strengthen those standards. Second, we must ensure that shippers and carriers understand our standards and know how to comply with them. Finally, we must detect those people who refuse or neglect to comply with safety requirements and stop their illegal activities.

Protecting the Public -- Strong Safety Standards

A key to the good safety record for hazardous materials transportation is a strong,

uniform set of rules that is consistent among the States and across international borders. During the past year we have continued to enhance our safety standards on a number of fronts.

As required by Congress, we issued a final rule applying our safety standards to intrastate highway shipments of hazardous materials. The rule contains common-sense provisions that recognize the needs of small businesses, farmers, and others, by including important exceptions in areas that do not have a significant impact on safety.

We have also worked to improve the safety of transporting hazardous materials by air. Working with the Federal Aviation Administration after the ValuJet crash last year, we banned the carriage of oxygen generators as cargo aboard passenger-carrying aircraft.

We have gone beyond the National Transportation Safety Board's recommendations by proposing to prohibit the carriage of oxidizers on passenger-carrying aircraft and in inaccessible compartments on cargo aircraft. In a supplemental notice, we further analyzed the dangers of carrying oxidizers aboard

passenger aircraft and proposed additional regulatory language that would implement the prohibition. Very shortly, we will be extending the comment period and holding a public meeting on this subject.

We are also working to improve the safety of the propane delivery industry, an issue that I know is important to this Committee. I think we have come a long way toward developing a solution that balances the needs of industry while ensuring safety for our communities. I recognize, though, that there are concerns about this issue.

I am confident that we can continue working together to resolve these concerns, and it is important that we do so quickly. As recently as September, a propane delivery truck in North Carolina spilled some of its contents, ignited, and severely burned the driver, who subsequently died. Although the incident is still under investigation, it appears that some of the options available in our most recent rulemaking, such as a remote control shut off device, could have lessened its severity.

On the international front, we are also pursuing strong, uniform standards. These

standards provide our international neighbors and Americans overseas with the same level of safety they enjoy here and promote trade for U.S. businesses by removing inconsistent packaging, labeling, and other requirements from the international transportation system.

**Ensuring that People Understand our Safety Standards
and Know How to Comply With Them**

Maintaining strong safety standards is an important first step. These standards are not helpful, however, if shippers and carriers do not understand them or do not know how to ensure that they are in compliance with the regulations. This is especially true in hazardous materials transportation, because many companies are small and ship hazardous materials infrequently, perhaps only once or twice per year. Because of the threat posed by undeclared shipments of hazardous materials, we are committed to investing resources to inform shippers and carriers about our safety standards.

Following the tragic ValuJet crash last year we expanded our training and public education efforts in the aviation field. We are particularly proud of the distribution

of millions of copies of a brochure that explains which materials cannot be brought aboard aircraft by passengers. This brochure, "These Fly... These May Not," makes it very easy for individual passengers to know what is permissible and safe to carry in their baggage.

To make sure that all parties subject to our intrastate rule fully understand what the rule requires, we developed a communications plan to reach out to intrastate carriers and shippers to distribute informational materials, target audiences through established forums and develop a compliance strategy that is based on common-sense by working with the States and industry.

We also have upgraded our information systems. For example, the Hazardous Materials Information System has been improved to allow easier access to vital hazardous materials data and information by DOT employees, Federal and State agencies, industry and the public. And we are expanding our Hazardous Materials Information Center capabilities to more effectively disseminate compliance information. These improvements will allow us to provide better information services to all of our customers, including intrastate carriers. As of this month, we have expanded our operating hours for the center's toll-free hotline service,

providing three lines operating continuously from 9:00 a.m. until 5:00 p.m.

We plan to expand audience participation in our already successful Cooperative Hazardous Materials Enforcement Development (COHMED) Program by reaching out to more segments of industry, especially small business and shippers.

COHMED works with the private sector and State enforcement officials to provide a cost-effective training vehicle to focus on a commonsense understanding of our regulations and how to comply.

In addition to expanding participation in our COHMED Program, we are upgrading our Internet site to allow for public access to hazardous materials transportation information. We are especially proud of our efforts to offer our customers an electronic means through the Internet to access rulemaking docket information and provide comments directly as we move away from a single agency system based on paperwork toward a centralized electronic docket management system.

In our reauthorization bill, we are proposing to allow States up to 25 percent of their hazardous materials planning and training grant funds to assist small businesses with regulatory compliance. This is an important provision because the

small business segment of the hazardous materials industry is less likely to have significant resources to keep abreast of regulatory requirements and may inadvertently violate the law by offering or transporting hazardous materials in an unsafe manner. By providing these businesses with information to comply with the regulations, we hope to reduce the number of undeclared hazardous materials shipments.

Strong Enforcement and Stopping Illegal Shipments

Although training and public education are valuable tools for enhancing compliance, there will always be people who refuse or neglect to comply with our safety standards.

With the support of the President and Congress, we obtained and have moved rapidly to fill 15 new hazardous materials inspector positions. We established a RSPA Hazardous Materials Safety regional office in Atlanta, a major hub of hazardous materials activity. Last year, we conducted joint inspections with the FAA at aviation repair stations.

With respect to undeclared hazardous materials shipments, our reauthorization proposal specifically authorizes DOT to issue emergency orders to stop dangerous shipments. Going back to the ValuJet tragedy, an inspector under current law does not have explicit legal authority to stop a box of oxygen generators from being loaded onto a passenger airplane. The most the inspector can do is find an attorney and file a motion in a Federal district court to get an injunction against the shipment. Similarly, under current law, a highway inspector cannot take a truck out of service if it is carrying drums that are leaking hazardous materials. By the time an injunction is obtained, the truck may be halfway across the country. We think this needs to change.

Our reauthorization bill also seeks to clarify our authority to open packages that most likely contain hazardous materials and evaluate their contents. Although we have this authority now, it is not clearly stated in the statute. This creates an ambiguity in the law which, in an extreme case, led to an inspector being sued for doing his job. We owe it to our inspectors to have the authority clearly stated in the statute. It will improve safety and put shippers on notice that their packages are subject to inspection.

Finally, as part of our compliance program, we have taken a commonsense approach by establishing a “ticketing program.” Under this program, persons who violate regulations that do not have a substantive impact on safety are not subject to lengthy administrative enforcement procedures. This saves the Government time and money prosecuting minor cases, and allows industry to quickly come into compliance without engaging in expensive compliance proceedings.

Conclusion

RSPA is committed to working with all segments of the hazardous materials community to prevent deaths, injury, and property damage, and to safeguard our environment. At the Federal, State, and local levels we continue to strengthen existing programs and cultivate new programs that bring us closer to achieving our goal, improved safety in the transportation of hazardous materials.

Thank you, and I would be pleased to answer any questions you might have.